

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN HREZIK,	)	
	)	Civil Action
Plaintiff	)	No. 2010-cv-04251
	)	
vs.	)	
	)	
KEN A MOYER, In his Official	)	
Capacity <sup>1</sup> ,	)	
	)	
WILLIAM HEIM, Chief of Police	)	
of the Reading Police	)	
Department, Individually, and	)	
in His Official Capacity and	)	
	)	
THE CITY OF READING, a City of	)	
the Third Class, and a	)	
Municipality of the Commonwealth	)	
of Pennsylvania,	)	
	)	
Defendants	)	

O R D E R

NOW, this 18<sup>th</sup> day of January, 2012, upon consideration of Defendants' Motion for Summary Judgment, which motion was filed September 20, 2011 (Document 20); upon consideration of Plaintiff John Hrezik's Response in Opposition to Defendants' Motion for Summary Judgment, which response was filed November 1, 2011 (Document 28); upon consideration of the briefs of the parties; and for the reasons expressed in the accompanying Opinion,

IT IS ORDERED that Defendant's Motion for Summary Judgment is granted in part and denied in part.

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<sup>1</sup> The caption of plaintiff's Complaint originally indicated that he was suing "Ken A. Moyer, Individually, and in his Official Capacity". By oral agreement of counsel placed on the record on January 17, 2012, the caption was amended to designate defendant as "Ken A. Moyer, In his Official Capacity".

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment on Count I of plaintiff's Complaint against defendant Ken A. Moyer is granted in part and denied in part.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment on plaintiff's claim in Count I of the Complaint brought pursuant to 42 U.S.C. § 1983 for violation of the Eighth and Fourteenth Amendments is granted.

IT IS FURTHER ORDERED that all claims in Count I of plaintiff's Complaint brought pursuant to 42 U.S.C. § 1983 for violation of the Eighth and Fourteenth Amendments are dismissed.

IT IS FURTHER ORDERED that in all other respects Defendants' Motion for Summary Judgment concerning Count I of plaintiff's Complaint is denied.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment concerning Count II of plaintiff's Complaint is granted.

IT IS FURTHER ORDERED that Count II is dismissed from plaintiff's Complaint.

IT IS FURTHER ORDERED that all claims against defendants William Heim and the City of Reading are dismissed from this action.

IT IS FURTHER ORDERED that Count III of plaintiff's Complaint shall be considered as part of plaintiff's prayer for

relief regarding the surviving portion of Count I of plaintiff's Complaint.

BY THE COURT:

/s/ JAMES KNOLL GARDNER  
James Knoll Gardner  
United States District Judge